

BOARD OF COUNTY COMMISSIONERS

AGENDA ITEM SUMMARY

Meeting Date: April 21, 2004

Division: BOCC

Bulk Item: Yes ☐ No ☒

Department: County Administrator

AGENDA ITEM WORDING: Progress report on Draft of Initial Assessment Resolution for the South Stock Island Wastewater Assessment Program. Directing the Board's attention to Exhibit II Assessment Notice Letter, and Exhibit III Consent and Acknowledgement Agreement

ITEM BACKGROUND:

Previous report and schedule for completing the program by Nabors, Giblin & Nickerson, P.A. on March 17, 2004. Schedule of Critical Events attached.

PREVIOUS RELEVANT BOCC ACTION:

BOCC gave County Administrator authority to proceed with Scope of Services provided by GSG (Government Services Group) to develop the special assessment roll for the South Stock Island Utility project.

CONTRACT/AGREEMENT CHANGES:

STAFF RECOMMENDATIONS:

TOTAL COST: N/A

BUDGETED: Yes ☒ No ☐

COST TO COUNTY: N/A

SOURCE OF FUNDS: N/A

REVENUE PRODUCING: Yes ☐ No ☐ AMOUNT PER MONTH ☐ Year ☐

APPROVED BY: County Atty ☐ OMB/Purchasing ☒ Risk Management ☐

DIVISION DIRECTOR APPROVAL:


Sheila A. Barker

DOCUMENTATION: Included ☒ To Follow ☐ Not Required ☐

DISPOSITION: ☐

AGENDA ITEM #

M6

Critical Events Schedule Stock Island, FL

Events	Date
Develop Database for Preliminary Assessment Roll	March 12 - April 30, 2004
Board of County Commissioners Project Status Meeting	March 17, 2004
Draft Initial Assessment Resolution	March - April 2004
Board of County Commissioners Meeting - Final Policy Direction - Key West	April 21, 2004
Print and Stuff Notices/Consent Agreements	April 22 - 30, 2004
Mail Notices	April 30, 2004
Notices Due to County (postmarked)	July 1, 2004
Prepare Final Assessment Roll	July 1 - 14, 2004
Provide County with Initial Assessment Resolution	July 7, 2004
Board of County Commissioners Adopt Initial Assessment Resolution - Key West	July 14, 2004
County Publishes Notice of Public Hearing	July 21, 2004
Public Hearing to Adopt Final Assessment Resolution (Special Meeting - Key West)	August 11, 2004
Certify Assessment Roll to Tax Collector	By September 15, 2004

DRAFT #2: 3/29/04

MONROE COUNTY, FLORIDA

**SOUTH STOCK ISLAND WASTEWATER ASSESSMENT PROGRAM
INITIAL ASSESSMENT RESOLUTION**

ADOPTED JULY 14, 2004

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	Exhibit II Form of Mailed Notice
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APPENDIX B	FORM OF NOTICE TO BE PUBLISHED
APPENDIX C	INITIAL WASTEWATER ASSESSMENT NOTICE FROM KW RESORT UTILITIES CORP.

RESOLUTION NO. ____ - 2004

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF MONROE COUNTY, FLORIDA, RELATING TO THE PROVISION OF WASTEWATER CAPACITY; DESCRIBING THE PROPERTY ELECTING TO PAY ANNUAL WASTEWATER ASSESSMENTS TO FUND THE WASTEWATER CAPACITY FEE AND RELATED COSTS; DETERMINING THE CAPACITY FEE, INTEREST RATE AND OTHER COSTS TO BE ASSESSED AND THE OTHER TERMS AND CONDITIONS OF THE ANNUAL WASTEWATER ASSESSMENTS; ESTABLISHING THE AMOUNT AND TERM OF THE ANNUAL WASTEWATER ASSESSMENT FOR EACH PARCEL OF PROPERTY TO BE ASSESSED; DIRECTING PREPARATION OF THE INITIAL NON-AD VALOREM ASSESSMENT ROLL; ESTABLISHING A PUBLIC HEARING TO CONSIDER IMPOSITION OF THE PROPOSED WASTEWATER ASSESSMENTS AND THE METHOD OF THEIR COLLECTION; DIRECTING THE PROVISION OF NOTICE IN CONNECTION THEREWITH; AND PROVIDING AN EFFECTIVE DATE.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MONROE COUNTY, FLORIDA, AS FOLLOWS:

ARTICLE I
DEFINITIONS AND CONSTRUCTION

SECTION 1.01. DEFINITIONS. As used in this Resolution, the following terms shall have the following meanings, unless the context hereof otherwise requires.

"Annual Capacity Fee Payment" means the amount computed for each Tax Parcel pursuant to Section 2.04(A) hereof.

"Board" means the Board of County Commissioners of Monroe County, Florida.

"Capacity Fee" means \$2,700 per "equivalent development unit" or "equivalent dwelling unit," the current capacity fee approved for the Utility by the Florida Public Service Commission. The Capacity Fee for each Tax Parcel is set forth in Appendix A to this Resolution.

"Collection Cost" means the amount computed for each Tax Parcel pursuant to Section 2.04(B) hereof.

"Consent and Acknowledgment Agreement" means the agreement required by Sections 2.02 and 2.03 of the Ordinance as a condition precedent to receiving the privilege of paying the Capacity Fee and related costs in installments as an Wastewater Assessment rather than as a lump sum at the time of connection to the Utility's vacuum wastewater system.

"County" means Monroe County, a political subdivision of the State of Florida.

"County Administrator" means the chief administrative officer of the County, designated by the Board to be responsible for coordinating the Wastewater Assessments, or such person's designee.

"Final Assessment Resolution" means the resolution described in Section 2.06 of the Ordinance, which shall confirm, modify or repeal this Resolution.

"Fiscal Year" means the period commencing on October 1 of each year and continuing through the next succeeding September 30, or such other period as may be prescribed by law as the fiscal year for the County.

"Non-Ad Valorem Assessment Roll" means a non-ad valorem assessment roll, as defined in Section 197.3632(1)(e), Florida Statutes.

"Ordinance" means Ordinance No. 027-2003.

"Prepayment Amount" means the amount required to prepay remaining balance of Wastewater Assessment for each Tax Parcel following certification of the Non-Ad Valorem Assessment Roll for the ad valorem tax bill to be mailed in November 2004, as computed annually pursuant to Section 2.04(E) hereof.

"Property Appraiser" means the Monroe County Property Appraiser.

"Statutory Discount" means the amount computed for each Tax Parcel pursuant to Section 2.04(C) hereof.

"Tax Collector" means the Monroe County Tax Collector.

"Tax Parcel" means a parcel of property to which the Property Appraiser has assigned a distinct ad valorem property tax identification number.

"**Tax Roll**" means the real property ad valorem tax assessment roll described in Section 193.114(2), Florida Statutes.

"**Uniform Assessment Collection Act**" means Sections 197.3632 and 197.3635, Florida Statutes, or any successor statutes authorizing the collection of non-ad valorem assessments on the same bill as ad valorem taxes, and any applicable regulations promulgated thereunder.

"**Utility**" means KW Resort Utilities Corp., a Florida Corporation.

"**Wastewater Assessment**" means an annual special assessment imposed against property for which a Consent and Acknowledgment Agreement was executed to fund the cost of providing wastewater capacity to serve the property and related costs, computed in the manner described in Section 2.04 hereof.

SECTION 1.02. INTERPRETATION. Unless the context indicates otherwise, words importing the singular number include the plural number, and vice versa; the terms "hereof," "hereby," "herein," "hereto," "hereunder" and similar terms refer to this Resolution; and the term "hereafter" means after, and the term "heretofore" means before, the effective date of this Resolution. Words of any gender include the correlative words of the other gender, unless the sense indicates otherwise.

SECTION 1.03. GENERAL FINDINGS. It is hereby ascertained, determined and declared that:

(A) Article VIII, Section 1 of the Florida Constitution, and Sections 125.01 and 125.66, Florida Statutes, grant to a board of county commissioners all powers of local

self-government to perform county functions and to render services for county purposes in a manner not inconsistent with general law, or with special law approved by vote of the electors, and such power may be exercised by the enactment of county ordinances.

(B) The Board of County Commissioners of Monroe County, Florida, has enacted the Ordinance to authorize the imposition of Wastewater Assessments to allow payment of the cost to provide wastewater capacity over a period of years instead of at the time of connection to the Utility's vacuum wastewater system.

(C) A reduction in the amount of costs due at the time of connection from the owners of property required to connect the Utility's vacuum wastewater system by the availability of an Wastewater Assessment option that permits the Capacity Fee and related costs to be paid over a period of years provides a special benefit to property and encourages connection to the vacuum wastewater system on a timely basis.

(D) Since the Capacity Fee and related costs are directly related to each specific parcel of property to be assessed, the Wastewater Assessment provides an equitable method of funding the Capacity Fee and related costs.

(E) In order to reduce the amount of the Wastewater Assessments, the County will provide an internal loan for a term up to 20 years with interest at 4.00 percent per annum. The County's interest rate is lower than the commercial interest rate otherwise available to the owners of property subject to the Wastewater Assessment.

**ARTICLE II
WASTEWATER ASSESSMENTS**

SECTION 2.01. DESCRIPTION OF PROPERTY TO BE ASSESSED.

The Tax Parcels against which Wastewater Assessments shall be imposed are described in Appendix A.

SECTION 2.02. IMPOSITION OF ASSESSMENTS. Wastewater Assessments shall be imposed against the Tax Parcels described in Appendix A for a period of five, ten, fifteen or twenty years, as designated in Appendix A for each Tax Parcel. The first annual Wastewater Assessment will be included on the ad valorem tax bill to be mailed in November 2004. When imposed, the Wastewater Assessment for each Fiscal Year shall constitute a lien upon such Tax Parcels pursuant to the Ordinance.

SECTION 2.03. PREPAYMENT AMOUNTS. The Capacity Fee for each Tax Parcel to be assessed is set forth in Appendix A. A Prepayment Amount for each Tax Parcel shall be computed annually, as provided in Section 2.04(E) hereof.

SECTION 2.04. COMPUTATION OF ANNUAL ASSESSMENTS. The annual Wastewater Assessment shall be computed for each Tax Parcel in the manner set forth below.

(A) Annual Capacity Fee Payment. The "Annual Capacity Fee Payment" for each Tax Parcel is set forth in Appendix A hereof and is equal to the debt service on the

Capacity Fee for such Tax Parcel amortized in equal annual installments over the term designated in Appendix A for such Tax Parcel with interest at 4.00 percent per annum.

(B) Collection Cost. The "Collection Cost" shall be computed each Fiscal Year for each Tax Parcel by (1) dividing (a) the Prepayment Amount for such Tax Parcel, by (b) the sum of the aggregate Prepayment Amount, and (2) multiplying the result by the estimated cost to be incurred by the County during any Fiscal Year in connection with collection of the Wastewater Assessments.

(C) Statutory Discount. The "Statutory Discount" shall be computed for each Tax Parcel as the amount allowed by law as the maximum discount for early payment of ad valorem taxes and non-ad valorem assessments, such amount to be calculated by deducting (1) the sum of (a) the Annual Capacity Fee Payment, and (b) the Collection Cost, from (2) the amount computed by dividing (a) the sum of (i) the Annual Capacity Fee Payment, and (ii) the Collection Cost, by (b) the factor of 0.96.

(D) Annual Wastewater Assessment. The annual Wastewater Assessment for each Tax Parcel shall be computed as the sum of (1) the Annual Capacity Fee Payment, (2) the Collection Cost, and (3) the Statutory Discount.

(E) Adjusted Prepayment Amount. Upon certification of the Non-Ad Valorem Assessment Roll for each Fiscal Year, the Prepayment Amount for each Tax Parcel shall be recomputed by deducting (1) the principal amortized by Annual Capacity Fee Payment determined in Section 2.04(A) above and included on the Non-Ad Valorem Assessment Roll for the Tax Parcel, from (2) the Prepayment Amount utilized to compute the annual

Wastewater Assessment included on the Non-Ad Valorem Assessment Roll for such Tax Parcel. The new Prepayment Amount shall become effective upon payment of the ad valorem tax bill which includes the Wastewater Assessment certified for such Fiscal Year.

SECTION 2.05. PREPAYMENT OPTION.

(A) The owner of each Tax Parcel subject to the Wastewater Assessments shall be entitled to prepay all future unpaid annual Wastewater Assessments upon payment of an amount equal to the sum of (1) the Prepayment Amount for such Tax Parcel, and (2) interest on the Prepayment Amount, from the date of the most recent ad valorem tax bill, computed at the rate of 4.00 percent per annum. The amount of all prepayments made pursuant to this Section 2.05(A) shall be final.

(B) During any period commencing on the date the annual Non-Ad Valorem Assessment Roll is certified for collection pursuant to the Uniform Assessment Collection Act and ending on the next date on which unpaid ad valorem taxes become delinquent, the County may reduce the amount required to prepay the future unpaid annual Wastewater Assessments for the Tax Parcel by the amount of the Wastewater Assessment that has been certified for collection with respect to such Tax Parcel.

SECTION 2.06. MANDATORY PREPAYMENT.

(A) The owner of a Tax Parcel subject to the Wastewater Assessment shall immediately prepay all future unpaid annual Wastewater Assessments for such Tax Parcel if (1) the Tax Parcel is acquired by a public entity through condemnation,

negotiated sale or otherwise, or (2) a tax certificate has been issued and remains outstanding in respect of the Tax Parcel and the County, at its sole option, elects to accelerate the Wastewater Assessment. Failure by the property owner to comply with this Section 2.06(A), will result in the remaining Prepayment Amount (plus interest computed at the rate utilized to compute the Annual Capacity Fee Payment in Section 2.05(A) hereof) being placed on the Tax Parcel's ad valorem tax bill for the next Fiscal Year, in addition to its share of the Collection Cost and Statutory Discount.

(B) The amount required to prepay the future unpaid annual Wastewater Assessments will be equal to the Prepayment Amount for such Tax Parcel. The amount of all prepayments made pursuant to this Section 2.06 shall be final.

(C) During any period commencing on the date the annual Non-Ad Valorem Assessment Roll is certified for collection pursuant to the Uniform Assessment Collection Act and ending on the next date on which unpaid ad valorem taxes become delinquent, the County may reduce the amount required to prepay the future unpaid annual Wastewater Assessments for the Tax Parcel by the amount of the Wastewater Assessment that has been certified for collection with respect to such Tax Parcel.

SECTION 2.07. REALLOCATION UPON FUTURE SUBDIVISION.

(A) Upon subdivision of any Tax Parcel subject to the Wastewater Assessment, and compliance with the conditions set forth below, the Prepayment Amount for such Tax Parcel shall be reallocated among the subdivided parcels.

(B) In order to have the Prepayment Amount for such Tax Parcel reallocated in connection with any such subdivision, the owner shall be required to apply to the County and comply with each of the following conditions:

(1) a recorded plat, approved site plan or comparable document must be provided to the County sufficient in detail to describe adequately the location of the Tax Parcel and the individual parcels in the proposed subdivision;

(2) the Property Appraiser must have assigned distinct ad valorem property tax identification numbers to each individual subdivided parcel;

(3) at the expense of the property owner, an appraisal must be provided by a "certified general appraiser," as defined in Section 475.611(g), Florida Statutes, approved by the County, which indicates the fair market value of the Tax Parcel prior to the subdivision and the fair market value of each individual subdivided parcel; in determining the fair market value of the individual subdivided parcels, the appraiser may take into consideration any infrastructure improvements that are then under construction if funds sufficient for their completion are secured to the satisfaction of the Board;

(4) a proposed reallocation of the Prepayment Amount to each individual parcel must be provided to the County; provided however, that no portion of the Prepayment Amount may be reallocated to property proposed for dedication to the public or to common use of the subdivided parcels;

(5) the fair market value of each separate parcel after the subdivision must be at least five times the Prepayment Amount reallocated thereto; and

(6) the property owner shall pay an assessment reallocation fee to the County for each individual parcel resulting from the subdivision, in an amount to be established by resolution of the Board.

(C) If the owner of any Tax Parcel subject to the Wastewater Assessment subdivides such Tax Parcel and fails to comply with the foregoing conditions, the County shall reallocate the Prepayment Amount among the subdivided parcels, based upon the land value, without improvements, assessed to each subdivided parcel by the Property Appraiser. At its sole option, the County may obtain an appraisal of the subdivided parcels at any time and reallocate the Prepayment Amount based upon the land value, without improvements, reflected in the appraisal. If an appraisal is obtained, the cost of the appraisal will be allocated among the subdivided parcels on the basis of the value reflected therein and added to the Prepayment Amount of the Wastewater Assessment for each subdivided parcel in the Fiscal Year following receipt of the appraisal. It is hereby found and determined that the foregoing method of reallocating the Prepayment Amount among subdivided parcels is fair and reasonable, taking into consideration the opportunity for reallocation available to the owner and the requirement to provide adequate security for the County.

(D) Upon reallocation of the Prepayment Amount for any Tax Parcel among subdivided parcels, the Annual Capacity Fee Payment for such Tax Parcel shall be reallocated to the subdivided parcels proportionally to the reallocated Prepayment Amounts.

**ARTICLE III
NOTICE AND PUBLIC HEARING**

SECTION 3.01. NON-AD VALOREM ASSESSMENT ROLL. The County Administrator is hereby directed to prepare the preliminary Non-Ad Valorem Assessment Roll in the manner provided in the Ordinance. The preliminary Non-Ad Valorem Assessment Roll shall be maintained by the County Administrator and open to public inspection. The foregoing shall not be construed to require that the Non-Ad Valorem Assessment Roll be in printed form if the amount of the Wastewater Assessment for each Tax Parcel can be determined by use of a computer terminal available to the public.

SECTION 3.02. PUBLIC HEARING. A public hearing will be conducted by the Board at 5:05 p.m., or as soon thereafter as the matter can be heard, on August 11, 2004, at the County Commission Chambers in the Harvey Government Center, 1200 Truman Avenue, Key West, Florida, to consider (A) imposition of the Wastewater Assessments, and (B) collection of the Wastewater Assessments pursuant to the Uniform Assessment Collection Act.

SECTION 3.03. NOTICE BY PUBLICATION. Upon completion of the Non-Ad Valorem Assessment Roll, the County Administrator shall publish a notice of the public hearing authorized by Section 3.02 hereof in the manner and the time provided in Section 2.05 of the Ordinance. Such notice shall be in substantially the form attached hereto as Appendix B.

**ARTICLE IV
GENERAL PROVISIONS**

SECTION 4.01. METHOD OF COLLECTION. The Wastewater Assessments shall be collected pursuant to the Uniform Assessment Collection Act. Upon adoption of a Final Assessment Resolution confirming this Resolution and imposing the Wastewater Assessments, the Non-Ad Valorem Assessment Roll shall be certified to the Tax Collector pursuant to the Uniform Assessment Collection Act.

SECTION 4.02. SEVERABILITY. If any clause, section or provision of this Resolution shall be declared unconstitutional or invalid for any reason or cause, the remaining portion of said Resolution shall be in full force and effect and be valid as if such invalid portion thereof had not been incorporated herein.

SECTION 4.03. EFFECTIVE DATE. This Resolution shall take effect immediately upon its adoption.

PASSED AND ADOPTED by the Board of County Commissioners of Monroe County, Florida, at a regular meeting of the Board held on the 14th day of July, 2004.

Mayor Nelson
Mayor Pro Tem Rice
Commissioner McCoy
Commissioner Neugent
Commissioner Spehar

(SEAL)

Attest: DANNY L. KOLHAGE

**BOARD OF COUNTY COMMISSIONERS
OF MONROE COUNTY, FLORIDA**

By: _____
Deputy Clerk

By: _____
Mayor/Chairperson

APPENDIX A
AFFIDAVIT OF MAILING